

FAHEY ET AL.  
"Mobile Wireless Communication Handset With  
Sound Mixer And Methods Therefor"  
Atty. Docket No. CS90041

Appl. No. 09/972,381  
Confirm No. 5141  
Examiner A. Flanders  
Art Unit 2644

## REMARKS

### **Request for Reconsideration, Informal Matters, Claims Pending**

The non-final Office Action mailed on 23 December 2005 has been considered carefully. Reconsideration of the claimed invention in view of the amendments above and the discussion below is respectfully requested.

Claims 1-37 are pending.

### **Response to Rejection Under 35 U.S.C. 112, Second Paragraph**

#### **Rejection Summary**

Claims 7, 8, 13, 14 and 15 stand rejected under 35 U.S.C. 112, second paragraph. The Examiner asserts that the "... term 'common' is a relative term which renders the claims indefinite."

#### **Discussion**

Contrary to the Examiner's assertion, the term "common" does not render Claims 7, 8, 13, 14 and 15 indefinite. The term common in the subject claims was used as a label or identifier. The term has nevertheless been stricken. Kindly withdraw the rejection.

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Art Unit 2644

### Allowability of Claims Over Hruska

#### Rejection Summary

Claims 1-37 stand rejected under 35 USC 102(e) as being unpatentable over U.S. Publication No. 2001/017415 (Hruska).

#### Allowability of Claim 1

Regarding independent Claim 1, contrary to the Examiner's assertion, Hruska fails to disclose or suggest a

... method for creating a polyphonic audio mix on a handheld mobile wireless communication device having a soundtrack data set file stored thereon, comprising:

entering first reference data for a first soundtrack of the soundtrack data set file into an audio mix data reference file by selecting the first soundtrack,

entering second reference data for a second soundtrack of the soundtrack data set file into the audio mix data reference file by selecting the second soundtrack,

the audio mix data reference file having the first and second reference data representative of a user defined polyphonic audio mix;

storing the audio mix data reference file having the first and second reference data on the handheld mobile wireless communication device separately from the soundtrack data set file.

In Hruska, the musical content consists of a MIDI file containing all the part patterns (musical tracks) and a control file containing control setting. Hruska, para. [0020-22 & 0024]. Hruska does not disclose an audio mix data reference file having reference data, wherein the reference file is stored separately from the soundtrack data file. In Hruska, the sound track

FAHEY ET AL.  
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Appl. No. 09/972,381  
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Examiner A. Flanders  
Art Unit 2644

data files (musical patterns) are stored as part of the MIDI file. Claim 1 is thus patentably distinguished over Hruska.

#### Allowability of Claim 10

Regarding independent Claim 10, contrary to the Examiner's assertion, Hruska fails to disclose or suggest a

... method for playing a polyphonic audio mix on a handheld mobile wireless communication device having a soundtrack data set file stored thereon, comprising:

playing a first soundtrack of the soundtrack data set file referenced in an audio mix data reference file,

playing a second soundtrack of the soundtrack data set file referenced in the audio mix data reference file,

the audio mix data reference file devoid of soundtrack data of the soundtrack data set file,

the audio mix data reference file stored separately from the soundtrack data set file on the handheld mobile wireless communication device.

In Hruska, the musical content consists of a MIDI file containing all the part patterns (musical tracks) and a control file containing control setting. Hruska, para. [0020-22 & 0024]. Hruska does not disclose playing one or more soundtracks referenced in a reference file, wherein the reference file is stored separately from the soundtrack data file. In Hruska, the sound track data files (musical patterns) are stored as part of the MIDI file. Claim 10 is thus patentably distinguished over Hruska.

#### Allowability of Claim 14

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Appl. No. 09/972,381  
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Regarding independent Claim 14, contrary to the Examiner's  
assertion, Hruska fails to disclose or suggest a

... method for a polyphonic audio mix on a handheld mobile wireless  
communication device having a soundtrack data set file and an audio mix  
data reference file stored separately thereon, comprising:  
integrating the audio mix data reference file and the soundtrack data  
set file into an audio format file,  
the audio mix data reference file having first and second soundtrack  
reference data referencing first and second soundtracks of the soundtrack  
data set file,  
the audio mix data reference file devoid of soundtrack data from the  
soundtrack data set file;  
uploading the audio format file from the handheld mobile wireless  
communication device.

In Hruska, the musical content consists of a MIDI file containing  
all the part patterns (musical tracks) and a control file containing control  
setting. Hruska, para. [0020-22 & 0024]. Hruska does not disclose an audio  
mix data reference file devoid of soundtrack data from the soundtrack data set  
file. Thus Hruska cannot possibly integrate an audio mix data reference file  
and a soundtrack data set file into a single audio format file. In Hruska, the  
sound track data files (musical patterns) are stored as part of the MIDI file.  
Claim 14 is thus patentably distinguished over Hruska.

#### Allowability of Claim 18

Regarding independent Claim 18, contrary to the Examiner's  
assertion, Hruska fails to disclose or suggest a

... method for a polyphonic audio mix on a handheld mobile wireless  
communication device, comprising:  
selecting a first soundtrack;  
playing the first soundtrack upon selecting the first soundtrack;

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Art Unit 2644

selecting a second soundtrack while playing the first soundtrack;  
playing the second soundtrack upon selecting the second soundtrack  
while playing the first soundtrack.

The Examiner's references to various passages of Hruska to support the rejection are misplaced. At para. [0020], Hruska discusses a MIDI file having a repeating musical pattern with 4 musical parts that may be rearranged by a user. At para. [0088], Hruska discusses a user interface for rearranging and mixing musical songs, and particularly 3 different levels: a first level for playing and mixing songs; a second level for instrument selection; and a third level for editing music. Hruska however fails to disclose dynamic mixing of audio tracks wherein a second soundtrack is played upon selecting the second soundtrack while the first sound track is playing. Claim 18 is thus patentably distinguished over Hruska.

#### Allowability of Claim 30

Regarding independent Claim 30, contrary to the Examiner's assertion, Hruska fails to disclose or suggest a

... method for creating a polyphonic audio mix on a handheld mobile wireless communication device, comprising:  
playing a first soundtrack upon selecting the first soundtrack;  
selecting an audio characteristic for the selected first soundtrack while playing the first soundtrack;  
playing the selected audio characteristic of the first soundtrack while playing the first soundtrack upon selecting the audio characteristic.

The Examiner's references to various passages of Hruska to support the rejection are misplaced. At para. [0020], Hruska discusses a MIDI file having a repeating musical pattern with 4 musical parts that may be

FAHEY ET AL.  
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Appl. No. 09/972,381  
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Examiner A. Flanders  
Art Unit 2644

rearranged by a user. At para. [0088], Hruska discusses a user interface for rearranging and mixing musical songs, and particularly 3 different levels: a first level for playing and mixing songs; a second level for instrument selection; and a third level for editing music. Hruska however fails to disclose dynamic mixing of a soundtrack and an audio characteristic for the sound track, wherein the characteristic is played upon selecting the characteristic while the first soundtrack is playing. Claim 30 is thus patentably distinguished over Hruska.

#### Allowability of Claim 34

Regarding independent Claim 34, contrary to the Examiner's assertion, Hruska fails to disclose or suggest a

... method for creating a polyphonic audio mix on a handheld mobile wireless communication device, comprising:  
selecting a first soundtrack having a first time interval;  
selecting a second soundtrack having a second time interval, the second time interval different than the first time interval;  
mixing the first and second soundtracks.

The Examiner's references to various passages of Hruska to support the rejection are misplaced. At para. [0024], Hruska discusses a text control file that specifies the initial state (ON or OFF) music file parts. In FIG. 2 of Hruska, discussed at para. [0025], the numerical values are indicative of notes and tempo. Hruska does not disclose soundtracks having differing time intervals. Claim 34 is thus patentably distinguished over Hruska.

#### Allowability of Claim 37

FAHEY ET AL.  
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Appl. No. 09/972,381  
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Claim 37 was amended grammatically. Contrary to the Examiner's assertion, Hruska fails to disclose or suggest a

... method for creating a polyphonic audio mix on a handheld mobile wireless communication device, comprising:  
playing a first soundtrack by selecting the soundtrack;  
selecting one of a second soundtrack and an audio characteristic of the first soundtrack while playing first soundtrack;  
if the second soundtrack is selected, playing the second soundtrack with the first soundtrack upon selecting the second soundtrack without further input by user,  
if the audio characteristic is selected, playing the audio characteristic of the first soundtrack upon selecting the audio characteristic while playing the first soundtrack without further input by user.

The Examiner's references to various passages of Hruska to support the rejection are misplaced. At para. [0020], Hruska discusses a MIDI file having a repeating musical pattern with 4 musical parts that may be rearranged by a user. At para. [0088], Hruska discusses a user interface for rearranging and mixing musical songs, and particularly 3 different levels: a first level for playing and mixing songs; a second level for instrument selection; and a third level for editing music. Hruska however fails to disclose dynamic mixing of audio tracks wherein a second soundtrack or soundtrack characteristic is played upon selection while a first sound track is playing. Claim 37 is thus patentably distinguished over Hruska.

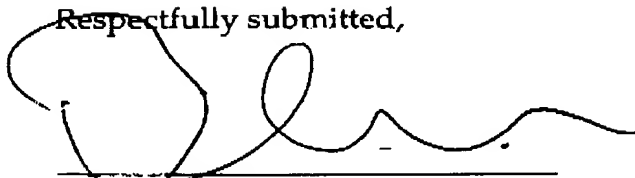
### **Prayer For Relief**

In view of any amendments and the discussion above, the Claims of the present application are in condition for allowance. Kindly withdraw any rejections and objections and allow this application to issue as a United States Patent without further delay.

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Appl. No. 09/972,381  
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Art Unit 2644

Respectfully submitted,



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